

BEFORE THE
POSTAL REGULATORY COMMISSION

Annual Compliance Report, 2016

: Docket No. ACR2016
:
:

UNITED PARCEL SERVICE, INC.'S MOTION FOR ACCESS
(January 4, 2017)

United Parcel Service, Inc. ("UPS") respectfully submits this Motion for Access pursuant to Commission Rules 3001.21 and 3007.50, requesting access for its outside counsel and consultants to non-public library references (USPS-FY2016-NP10, USPS-FY2016-NP11, USPS-FY2016-NP12, and USPS-FY2016-NP13), which the United States Postal Service ("Postal Service") filed with the Commission on December 29, 2016, as part of the Postal Service's Annual Compliance Report ("ACR") for fiscal year ("FY") 2016.

UPS seeks access to these library references for its outside counsel and consultants to assist it in making informed comments regarding both Docket No. ACR2016 and Docket No. RM2017-1, regarding the appropriate minimum contribution of competitive products to the Postal Service's institutional costs. See Dkt. No. ACR2016, Order No. 3717 ("Order No. 3717") (Dec. 30, 2016) (inviting comments); Dkt. No. RM2017-1, Order No. 3624 ("Order No 3624") (Nov. 22, 2016) (inviting comments). These outside counsel and consultants are identified in Exhibit 1, attached hereto, and each has executed a copy of the Commission's standard protective order conditions.

In determining whether to grant access to non-public data relevant to compliance, the Commission “shall balance the interests of the parties based on Federal Rule of Civil Procedure 26(c).” 39 C.F.R. § 3007.52. UPS’s request clearly satisfies this test. The requested non-public library references are directly relevant to both ACR2016 and RM-2017-1, and UPS has a substantial interest in the subject matter of both dockets.

The Postal Service filed its ACR for FY 2016 on December 29, 2016, and the Commission has initiated a proceeding seeking comments on that Report, specifically on the topic of (1) “whether any rates or fees in effect during FY 2016 (for products individually or collectively) were not in compliance with applicable provisions,” and (2) “cost coverage matters the Postal Service addresses in its filing; service performance results; levels of customer satisfaction achieved; and any such other matters that may be relevant to the Commission’s Review.” Order No. 3717 at 6.

In support of its ACR, the Postal Service relies extensively on non-public materials filed under seal. Although the Postal Service has provided public library references, meaningful analysis will not be possible with only the publically available data. For example, Public Library Reference USPS-FY16-43 displays “group incremental costs for four of the six competitive product groups for which volume variable and product specific costs are shown in the Public CRA (USPS-FY16-1).” Dkt. No. ACR2016, USPS-FY16-43 at 1 (December 29, 2016). The competitive product cost data “however, are developed in USPS-FY16-NP10, and merely reproduced here as results.” *Id.* Without the Postal Service’s underlying data and analysis contained in

USPS-FY16-NP10, UPS will be unable to meaningfully comment on whether the results are “in compliance with applicable provisions.” Order No. 3717 at 6.

USPS-FY16-NP11 contains the Nonpublic Cost and Revenue Analysis, which “displays revenues, volume variable costs, product specific costs, aggregate volume variable and product specific costs, unit contribution, cost coverages, volumes, and weights for each of the Postal Service’s Products.” Docket No. ACR2016, USPS-FY16-9 at 79 (“ACR2016 Roadmap”) (Dec. 29, 2016). The Public Cost and Revenue Analysis, USPS-FY16-1, however, contains only “summary information” “[f]or competitive products[.]” ACR Roadmap at 1. Meaningful comment on whether competitive product “rates or fees in effect during FY 2016 ... were not in compliance with applicable provisions” will not be possible without access to the Nonpublic Cost and Revenue Analysis. Order No. 3717 at 6.

USPS-FY16-NP12 contains the “FY 2016 Nonpublic Cost Segments and Components[]” which is “an output of the FY 2016 Cost and Revenue Analysis [] Model” contained in USPS-FY16-NP13. ACR Roadmap at 80. This data is essential to commenting meaningfully on “cost coverage matters the Postal Service addresses in its filing [and] service performance results[.]” Order No. 3717 at 6. USPS-FY16-NP13 “contains the Fiscal Year 2016 Cost and Revenue Analysis [] Model along with Associated cost matrices and reports.” ACR2016 Roadmap at 81. Without the model itself, UPS’ outside counsel and consultants will be unable to verify whether the figures presented in USPS-FY16-NP11 and USPS-FY16-NP12 are accurate and complete, nor will they be able to assess whether superior modeling is possible.

These materials are also all necessary to the matter at issue in Docket No. RM2017-1. There, the Postal Commission has initiated a proceeding to review the “appropriate minimum contribution to the Postal Service’s institutional costs that competitive products must provide, pursuant to 39 U.S.C. 3633(b).” Order No. 3624 at 1. The non-public data regarding competitive products filed by the Postal Service in ACR2016 is the most up-to-date and complete data available anywhere on the topics directly under consideration in Docket No. RM2017-1. Without the requested Non-Public Library References, UPS’s outside counsel and consultants will be required to rely only on older and less complete competitive products data. UPS’ comments and expert materials will thus, necessarily, be more meaningful, helpful to the Commission, and complete if access to these materials is granted.

Respectfully submitted,

UNITED PARCEL SERVICE, INC.,

By: /s/ Steig D. Olson
Steig D. Olson
Quinn Emanuel Urquhart & Sullivan, LLP
51 Madison Ave., 22nd Floor
New York, NY 10010
(212) 849-7152
steigolson@quinnemanuel.com

Attorney for UPS

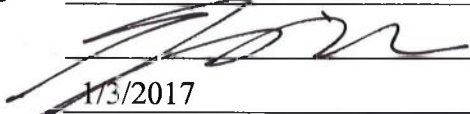
Exhibit 1

1. Steig Olson
2. David LeRay
3. Andrew Sutton
4. Christopher Seck
5. Michael Gulston
6. Kevin Neels
7. Nicholas Powers
8. Nathan Basch
9. Jacob Light
10. Angela Lam
11. Dan Luo
12. Nathan Plein
13. Martha Rogers

CERTIFICATION

The undersigned represents that:

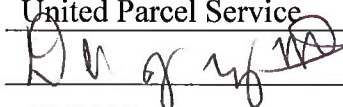
Access to these materials provided in the matter identified as Commission Docket No. ACR2016 (USPS-FY16-NP10, USPS-FY16-NP11, USPS-FY16-NP12, and USPS-FY16-NP13) by the Postal Service has been authorized by the Commission. The cover or label of the copy obtained is marked with my name. I agree to use the information only for purposes of analyzing matters at issue in the matters identified as Commission Docket No. ACR2016 and Docket No. RM-2017-1. I certify that I have read and understand the above protective conditions and am eligible to receive access to materials under paragraph 1 of the protective conditions. I further agree to comply with all protective conditions and will maintain these materials in strict confidence in accordance with all of the protective conditions set out above.

Name	<u>Steig Olson</u>
Firm	<u>Quinn Emanuel Urquhart & Sullivan LLP</u>
Title	<u>Partner</u>
Representing	<u>United Parcel Service</u>
Signature	<u></u>
Date	<u>1/3/2017</u>

CERTIFICATION

The undersigned represents that:

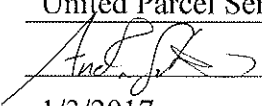
Access to these materials provided in the matter identified as Commission Docket No. ACR2016 (USPS-FY16-NP10, USPS-FY16-NP11, USPS-FY16-NP12, and USPS-FY16-NP13) by the Postal Service has been authorized by the Commission. The cover or label of the copy obtained is marked with my name. I agree to use the information only for purposes of analyzing matters at issue in the matters identified as Commission Docket No. ACR2016 and Docket No. RM2017-1. I certify that I have read and understand the above protective conditions and am eligible to receive access to materials under paragraph 1 of the protective conditions. I further agree to comply with all protective conditions and will maintain these materials in strict confidence in accordance with all of the protective conditions set out above.

Name	<u>David LeRay</u>
Firm	<u>Quinn Emanuel Urquhart & Sullivan LLP</u>
Title	<u>Associate</u>
Representing	<u>United Parcel Service</u>
Signature	<u></u>
Date	<u>1/3/2017</u>

CERTIFICATION

The undersigned represents that:

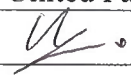
Access to these materials provided in the matter identified as Commission Docket No. ACR2016 (USPS-FY16-NP10, USPS-FY16-NP11, USPS-FY16-NP12, and USPS-FY16-NP13) by the Postal Service has been authorized by the Commission. The cover or label of the copy obtained is marked with my name. I agree to use the information only for purposes of analyzing matters at issue in the matters identified as Commission Docket No. ACR2016 and Docket No. RM2017-1. I certify that I have read and understand the above protective conditions and am eligible to receive access to materials under paragraph 1 of the protective conditions. I further agree to comply with all protective conditions and will maintain these materials in strict confidence in accordance with all of the protective conditions set out above.

Name	<u>Andrew Sutton</u>
Firm	<u>Quinn Emanuel Urquhart & Sullivan LLP</u>
Title	<u>Associate</u>
Representing	<u>United Parcel Service</u>
Signature	<u></u>
Date	<u>1/3/2017</u>

CERTIFICATION

The undersigned represents that:

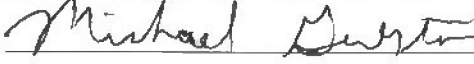
Access to these materials provided in the matter identified as Commission Docket No. ACR2016 (USPS-FY16-NP10, USPS-FY16-NP11, USPS-FY16-NP12, and USPS-FY16-NP13) by the Postal Service has been authorized by the Commission. The cover or label of the copy obtained is marked with my name. I agree to use the information only for purposes of analyzing matters at issue in the matters identified as Commission Docket No. ACR2016 and Docket No. RM2017-1. I certify that I have read and understand the above protective conditions and am eligible to receive access to materials under paragraph 1 of the protective conditions. I further agree to comply with all protective conditions and will maintain these materials in strict confidence in accordance with all of the protective conditions set out above.

Name	<u>Christopher Seck</u>
Firm	<u>Quinn Emanuel Urquhart & Sullivan LLP</u>
Title	<u>Associate</u>
Representing	<u>United Parcel Service</u>
Signature	<u></u>
Date	<u>1/3/2017</u>

CERTIFICATION

The undersigned represents that:

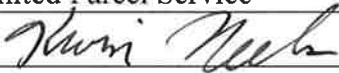
Access to these materials provided in the matter identified as Commission Docket No. ACR2016 (USPS-FY16-NP10, USPS-FY16-NP11, USPS-FY16-NP12, and USPS-FY16-NP13) by the Postal Service has been authorized by the Commission. The cover or label of the copy obtained is marked with my name. I agree to use the information only for purposes of analyzing matters at issue in the matters identified as Commission Docket No. ACR2016 and Docket No. RM2017-1. I certify that I have read and understand the above protective conditions and am eligible to receive access to materials under paragraph 1 of the protective conditions. I further agree to comply with all protective conditions and will maintain these materials in strict confidence in accordance with all of the protective conditions set out above.

Name	<u>Michael Gulston</u>
Firm	<u>Quinn Emanuel Urquhart & Sullivan LLP</u>
Title	<u>Paralegal</u>
Representing	<u>United Parcel Service</u>
Signature	<u></u>
Date	<u>1/3/2017</u>

CERTIFICATION

The undersigned represents that:

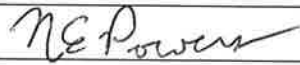
Access to these materials provided in the matter identified as Commission Docket No. ACR2016 (USPS-FY16-NP10, USPS-FY16-NP11, USPS-FY16-NP12, and USPS-FY16-NP13) by the Postal Service has been authorized by the Commission. The cover or label of the copy obtained is marked with my name. I agree to use the information only for purposes of analyzing matters at issue in the matters identified as Commission Docket No. ACR2016, and Docket No. RM2017-1. I certify that I have read and understand the above protective conditions and am eligible to receive access to materials under paragraph 1 of the protective conditions. I further agree to comply with all protective conditions and will maintain these materials in strict confidence in accordance with all of the protective conditions set out above.

Name	Kevin Neels
Firm	The Brattle Group
Title	Principal
Representing	United Parcel Service
Signature	
Date	1/3/2017

CERTIFICATION

The undersigned represents that:

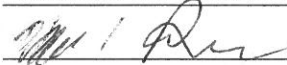
Access to these materials provided in the matter identified as Commission Docket No. ACR2016 (USPS-FY16-NP10, USPS-FY16-NP11, USPS-FY16-NP12, and USPS-FY16-NP13) by the Postal Service has been authorized by the Commission. The cover or label of the copy obtained is marked with my name. I agree to use the information only for purposes of analyzing matters at issue in the matters identified as Commission Docket No. ACR2016, and Docket No. RM2017-1. I certify that I have read and understand the above protective conditions and am eligible to receive access to materials under paragraph 1 of the protective conditions. I further agree to comply with all protective conditions and will maintain these materials in strict confidence in accordance with all of the protective conditions set out above.

Name	Nicholas Powers
Firm	The Brattle Group
Title	Senior Associate
Representing	United Parcel Service
Signature	
Date	1/3/2017

CERTIFICATION

The undersigned represents that:


Access to these materials provided in the matter identified as Commission Docket No. ACR2016 (USPS-FY16-NP10, USPS-FY16-NP11, USPS-FY16-NP12, and USPS-FY16-NP13) by the Postal Service has been authorized by the Commission. The cover or label of the copy obtained is marked with my name. I agree to use the information only for purposes of analyzing matters at issue in the matters identified as Commission Docket No. ACR2016, and Docket No. RM2017-1. I certify that I have read and understand the above protective conditions and am eligible to receive access to materials under paragraph 1 of the protective conditions. I further agree to comply with all protective conditions and will maintain these materials in strict confidence in accordance with all of the protective conditions set out above.

Name	<u>Nathan Basch</u>
Firm	<u>The Brattle Group</u>
Title	<u>Research Analyst</u>
Representing	<u>United Parcel Service</u>
Signature	<u></u>
Date	<u>1/3/2017</u>

CERTIFICATION

The undersigned represents that:


Access to these materials provided in the matter identified as Commission Docket No. ACR2016 (USPS-FY16-NP10, USPS-FY16-NP11, USPS-FY16-NP12, and USPS-FY16-NP13) by the Postal Service has been authorized by the Commission. The cover or label of the copy obtained is marked with my name. I agree to use the information only for purposes of analyzing matters at issue in the matters identified as Commission Docket No. ACR2016, and Docket No. RM2017-1. I certify that I have read and understand the above protective conditions and am eligible to receive access to materials under paragraph 1 of the protective conditions. I further agree to comply with all protective conditions and will maintain these materials in strict confidence in accordance with all of the protective conditions set out above.

Name	<u>JACOB LIGHT</u>
Firm	<u>THE BRATTLE GROUP</u>
Title	<u>RESEARCH ANALYST</u>
Representing	<u>United Parcel Service</u>
Signature	<u></u>
Date	<u>1/3/2017</u>

CERTIFICATION

The undersigned represents that:


Access to these materials provided in the matter identified as Commission Docket No. ACR2016 (USPS-FY16-NP10, USPS-FY16-NP11, USPS-FY16-NP12, and USPS-FY16-NP13) by the Postal Service has been authorized by the Commission. The cover or label of the copy obtained is marked with my name. I agree to use the information only for purposes of analyzing matters at issue in the matters identified as Commission Docket No. ACR2016, and Docket No. RM2017-1. I certify that I have read and understand the above protective conditions and am eligible to receive access to materials under paragraph 1 of the protective conditions. I further agree to comply with all protective conditions and will maintain these materials in strict confidence in accordance with all of the protective conditions set out above.

Name	Angela Lam
Firm	The Brattle Group
Title	Research Analyst
Representing	United Parcel Service
Signature	
Date	1/3/2017

CERTIFICATION

The undersigned represents that:


Access to these materials provided in the matter identified as Commission Docket No. ACR2016 (USPS-FY16-NP10, USPS-FY16-NP11, USPS-FY16-NP12, and USPS-FY16-NP13) by the Postal Service has been authorized by the Commission. The cover or label of the copy obtained is marked with my name. I agree to use the information only for purposes of analyzing matters at issue in the matters identified as Commission Docket No. ACR2016, and Docket No. RM2017-1. I certify that I have read and understand the above protective conditions and am eligible to receive access to materials under paragraph 1 of the protective conditions. I further agree to comply with all protective conditions and will maintain these materials in strict confidence in accordance with all of the protective conditions set out above.

Name	<u>Dan Luo</u>
Firm	<u>The Brattle Group</u>
Title	<u>Associate</u>
Representing	<u>United Parcel Service</u>
Signature	<u></u>
Date	<u>1/3/2017</u>

CERTIFICATION

The undersigned represents that:


Access to these materials provided in the matter identified as Commission Docket No. ACR2016 (USPS-FY16-NP10, USPS-FY16-NP11, USPS-FY16-NP12, and USPS-FY16-NP13) by the Postal Service has been authorized by the Commission. The cover or label of the copy obtained is marked with my name. I agree to use the information only for purposes of analyzing matters at issue in the matters identified as Commission Docket No. ACR2016, and Docket No. RM2017-1. I certify that I have read and understand the above protective conditions and am eligible to receive access to materials under paragraph 1 of the protective conditions. I further agree to comply with all protective conditions and will maintain these materials in strict confidence in accordance with all of the protective conditions set out above.

Name	<u>Nathan Plein</u>
Firm	<u>The Prattle Group</u>
Title	<u>Senior Research Analyst</u>
Representing	<u>United Parcel Service</u>
Signature	<u></u>
Date	<u>1/3/2017</u>

CERTIFICATION

The undersigned represents that:

Access to these materials provided in the matter identified as Commission Docket No. ACR2016 (USPS-FY16-NP10, USPS-FY16-NP11, USPS-FY16-NP12, and USPS-FY16-NP13) by the Postal Service has been authorized by the Commission. The cover or label of the copy obtained is marked with my name. I agree to use the information only for purposes of analyzing matters at issue in the matters identified as Commission Docket No. ACR2016, and Docket No. RM2017-1. I certify that I have read and understand the above protective conditions and am eligible to receive access to materials under paragraph 1 of the protective conditions. I further agree to comply with all protective conditions and will maintain these materials in strict confidence in accordance with all of the protective conditions set out above.

Name	<u>Martha Rogers</u>
Firm	<u>The Brattle Group</u>
Title	<u>Associate</u>
Representing	<u>United Parcel Service</u>
Signature	<u></u>
Date	<u>1/3/2017</u>